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Washington, Tuesday, September 26, 1939

The President

EXECUTIVE ORDER

AMENDMENT OF EXECUTIVE ORDER NO. 7972 OF SEPTEMBER 15, 1938

By virtue of the authority vested in me by the act of March 26, 1934, 48 Stat. 466, Executive Order No. 7972 of September 15, 1938,[1] prescribing regulations governing payment of losses sustained by officers, enlisted men, and employees of the United States in foreign countries on account of appreciation of foreign currencies in their relation to the American dollar, is hereby amended as follows:

1. Section 1 (b) of the said Executive order is amended by adding thereto the following:

The phrase "in the general area of foreign waters to which the vessel is stationed" means the area in which a ship may be required to operate in execution of its mission. The term "members of a ship's company" includes commissioned officers, warrant officers, members of Navy Nurse Corps, enlisted personnel, and civilians attached to the vessel for special duty.

2. Section 2 (b) of the said Executive order is amended to read as follows:

2. (b) In case of employees serving under the War and Navy Departments (with the exception of personnel of military and naval missions, military and naval attaches and other employees attached to their offices, who shall be governed by paragraph (a) of this section), the loss reimbursable is that calculated on the basis of conversion into foreign currency of the employee's net pay and allowances: *Provided, however,* and effective immediately, employees of the Navy shall be entitled to foreign service pay adjustment only in the event of detail for duty on shore or when residence of the family of individual members of a ship's company is maintained in foreign countries, where the currency is appreciated in terms of American currency, when such countries are in the general area of foreign waters to which the vessel is stationed, on the basis of net pay and allowances earned during the period of duty on shore or maintenance of residence as herein provided and to the employees so affected and at the rates applicable to the country wherein duty is performed or residence maintained: *Provided further,* that such adjustment of exchange loss as may be effected by reason of maintenance of residence shall not exceed the adjustment which is calculated to be payable considering the rates applicable to the country to the waters of which the vessel is stationed, as to all of which facts the commanding officer shall certify.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
September 21, 1939.

[No. 8261]

[F. R. Doc. 39-3518; Filed, September 22, 1939; 3:30 p. m.]

[1] 3 F.R. 2249 DI.

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

FARM CREDIT ADMINISTRATION

[F.C.A. 145]

FUNCTIONS, POWERS, AUTHORITY, AND DUTIES OF DIRECTOR, ASSISTANT DIRECTOR, AND CHIEF OF CREDITS AND COLLECTIONS, EMERGENCY CROP AND FEED LOAN SECTION

1. Sec. 3.79 of Title 6, Code of Federal Regulations, is amended to read as follows:

"§ 3.79 *Functions, powers, authority, and duties of Director, Assistant Director, and Chief of Credits and Collections, Emergency Crop and Feed Loan Section.* The Director of the Emergency Crop and Feed Loan Section is authorized and empowered, subject to the jurisdiction and control of Deputy Governor Gerald E. Lyons, to execute and perform all functions, powers, authority, and duties vested in the Gov-

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THE PRESIDENT

RULES, REGULATIONS, ORDERS

(Continued on next page)

FEDERAL REGISTER

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NOTICES

ernor of the Farm Credit Administration by any Act of Congress or Executive Order relative to emergency crop and feed loans and matters incidental thereto.

"The Assistant Director of the Emergency Crop and Feed Loan Section is authorized and empowered to perform any and all functions and duties which the Director of the Emergency Crop and Feed Loan Section is authorized and empowered to perform, in the event that the Director is unavailable to act by reason of absence from the Washington office of the Farm Credit Administration, or for any other cause.

"The Chief of Credits and Collections of the Emergency Crop and Feed Loan Section is authorized and empowered to perform any and all functions and duties which the Director of the Emergency Crop and Feed Loan Section is authorized and empowered to perform, in the event that both the Director and the Assistant Director are unavailable to act by reason of absence from the Washington office of the Farm Credit Administration, or for any other cause. (E.O. 6084, March 27, 1933, 6 CFR 1.1 (1); sec. 5, 50 Stat. 6; 12 U.S.C., Sup., 1020m) [F.C.A. Order No. 189, May 19, 1937; F.C.A. Order No. 266, September 25, 1939]"

[SEAL] F. F. HILL,
Governor.

[F. R. Doc. 39-3531; Filed, September 25, 1939; 11:48 a. m.]

TITLE 7—AGRICULTURE

BUREAU OF ENTOMOLOGY AND PLANT QUARANTINE

[B. E. P. Q.—Q. 52]

[Revision of Regulation 2 effective September 25, 1939]

MODIFICATION OF PINK BOLLWORM QUARANTINE REGULATIONS

Introductory Note

Additional infestations of the pink bollworm having recently been located in Texas, the regulated area is further extended by this amendment, to include the Texas counties of Dimmit, Frio, and Zavala, all lightly infested, and all contiguous to former regulated area. No other change is made by this amendment. Regulations 3 and 4, which were revised on September 11, 1939,[1] are brought forward as part of the current document, for the convenience of shippers and others, and amendment No. 1 is superseded.

LEE A. STRONG,
Chief.

[1] 4 F.R. 3865 DI.

AMENDMENT NO. 2 TO THE REVISED REGULATIONS SUPPLEMENTAL TO NOTICE OF QUARANTINE NO. 52

Under authority conferred by the Plant Quarantine Act of August 20, 1912 (37 Stat. 315), as amended by the Act of Congress approved March 4, 1917 (39 Stat. 1134, 1165), it is ordered that regulation 2 (Sec. 301.52–2) of the revised regulations supplemental to Notice of Quarantine No. 52 (Sec. 301.52) on account of the pink bollworm, which were promulgated March 7, 1939, and amended September 11, 1939, is hereby still further amended to read as follows:

Regulation 2

§ 301.52–2 *Regulated areas.* The following areas are hereby designated as regulated areas within the meaning of these regulations and are further classed as heavily or lightly infested:

Heavily infested areas—Texas. Counties of Brewster, Culberson, Jeff Davis, Presidio, and Terrell, and all of *Hudspeth County*, except that part of the northwest corner of said county lying north and west of a ridge of desert land extending from the banks of the Rio Grande northeasterly through the desert immediately west of the town of McNary, such ridge being an extension of the northwest boundary line of section 11, block 65½.

Lightly infested areas—Arizona. Counties of Cochise, Graham, Greenlee, Maricopa, Pinal, and Santa Cruz, and all of *Pima County*[2] except that part lying west of the western boundary line of range 8 east.

New Mexico. Counties of Chaves, Dona Ana, Eddy, Grant, Hidalgo, Lea, Luna, Otero, Roosevelt, Sierra, Socorro, and Valencia.

Texas. Counties of Andrews, Brooks, Cameron, Cochran, Crane, Dawson, Dimmit, Duval, Ector, El Paso, Frio, Gaines, Glasscock, Hidalgo, Hockley, Howard, Jim Hogg, Jim Wells, Kennedy, Kleberg, La Salle, Loving, Martin, Maverick, Midland, Nueces, Pecos, Reeves, Starr, Terry, Upton, Ward, Webb, Willacy, Winkler, Yoakum, Zapata, and Zavala; that part of *Bailey County* lying south of the following-described boundary line: Beginning on the east line of said county where the county line intersects the northern boundary line of league 207; thence west following the northern boundary line of leagues 207, 203, 191, 188, 175, and 171 to the northeast corner of league 171; thence south on the western line of league 171 to the northeast corner of the W. H. L. survey; thence west along the northern boundary of the W. H. L. survey and the northern boundary of sections 68, 67, 66,

[2] Part of the lightly infested area in Arizona is regulated on account of the Thurberia weevil under quarantine No. 61, and shipments therefrom must comply with the requirements of that quarantine.

65, 64, 63, 62, 61, and 60 of block A of the M. B. & B. survey to the western boundary of said county; that part of *Lamb County* lying south of the following-described boundary line: Beginning on the east line of said county where the county line intersects the northern boundary line of section 9 of the R. M. Thomson survey; thence west following the northern boundary line of sections 9 and 10 of the R. M. Thomson survey and the northern boundary line of sections 6, 5, 4, 3, 2, and 1 of the T. A. Thompson survey and the northern boundary line of leagues 637, 636, and 635 to the southeast corner of league 239; thence north on the eastern boundary line of league 239 to the northeast corner of said league; thence west on the northern boundary line of leagues 239, 238, 233, 222, 218, and 207 to the western boundary line of said county; and that part of the northwest corner of *Hudspeth County* lying north and west of a ridge of desert land extending from the banks of the Rio Grande northeasterly through the desert immediately west of the town of McNary, such ridge being an extension of the northwest boundary line of section 11, block 65½.[3]

Regulation 3

§ 301.52–3 *Articles the interstate movement of which is restricted or prohibited—(a) Articles prohibited movement.* The interstate movement from any regulated area of gin trash and cotton waste from gins and mills, and all untreated or unmanufactured cotton products other than seed cotton, cotton lint and linters, either baled or unbaled, cottonseed, cottonseed hulls, and cottonseed meal and cake is prohibited.

(b) *Articles authorized interstate movement.* Seed cotton, cotton lint, and linters, either baled or unbaled, cottonseed, cottonseed hulls, cottonseed meal and cake, and okra may be moved interstate from regulated areas as prescribed herein.[3]

Regulation 4

§ 301.52–4 *Conditions governing the issuance of certificates—(a) Cotton lint and linters.* A certificate may be issued for the interstate movement of cotton lint or linters, either baled or unbaled, originating in a regulated area when they have been ginned in an approved gin and have been passed in bat form between heavy steel rollers set not more than 1/64 inch apart, or have been given approved vacuum fumigation under the supervision of an inspector: *Provided,* That lint produced in a lightly infested area may be given standard or high density compression in lieu of either rolling or fumigation: *Provided further,* That certificates may be issued for the interstate movement of linters produced from sterilized seed originating in a lightly infested area when produced in an authorized oil mill.

(b) *Cottonseed.* A certificate may be issued for the interstate movement of cottonseed produced in a regulated area when it has been ginned in an approved gin and has been sterilized under the supervision of an inspector by heat treatment at a required temperature of 150° F. for a period of 30 seconds: *Provided,* That certificates may be issued for interstate movement of sterilized cottonseed originating in heavily infested areas only to contiguous regulated areas for processing in authorized oil mills.

(c) *Cottonseed hulls, cake, and meal.* Certificates may be issued for the interstate movement of cottonseed hulls, cake, and meal produced from sterilized seed originating in a regulated area when these products have been processed in an authorized oil mill under the supervision of an inspector.

(d) *Seed cotton.* The interstate movement of seed cotton will be allowed only from lightly infested areas into contiguous regulated areas for the purpose of ginning for which movement no permit is required.

(e) *Okra.* Certificates may be issued for the interstate movement of okra under any one of the following conditions: (1) When inspected by an inspector and found to be free from infestation; (2) when produced under such conditions as to render it free from infestation; (3) when processed or treated in accordance with methods which may be determined and approved by the Chief of the Bureau of Entomology and Plant Quarantine.

(f) *Movement to contiguous infested area.* No certificates are required for the interstate movement of restricted articles from a lightly infested area to a contiguous, lightly or heavily infested area, or from a heavily infested area to a contiguous, heavily infested area.[3]

This amendment shall be effective on and after September 25, 1939, and shall, on that date, supersede amendment No. 1, which became effective on September 15, 1939.

Done at the city of Washington this 23d day of September 1939.

Witness my hand and the seal of the United States Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39–3527; Filed, September 23, 1939; 11:33 a. m.]

FEDERAL SURPLUS COMMODITIES CORPORATION

SURPLUS COMMODITIES BULLETIN No. 3

Subject to the applicable regulations and conditions prescribed by Henry A. Wallace, Secretary of Agriculture of the United States of America Surplus Commodities Bulletin No. 2 dated June 30, 1939,[1] is hereby cancelled effective midnight, E. S. T., September 30, 1939.

The following agricultural commodities and products are hereby designated as surplus food *effective 12:01 A. M., E. S. T., October 1, 1939 and until further notice:*

Butter.
Pork Lard.
Corn Meal.
Shell Eggs.
Dried Prunes.
Raisins.
Fresh Pears.
Fresh Apples.
Onions (Except Green Onions).
Dry Edible Beans.
Wheat Flour & Whole Wheat.
(Graham) Flour.

The following additional agricultural commodity is hereby designated as surplus food *beginning 12:01 A. M., E. S. T., October 1, 1939 and ending midnight, E. S. T., October 31, 1939:*

Snap Beans.

Blue surplus food order stamps may be used in accordance with the regulations and conditions referred to above for any of the above surplus foods in any retail food store, as defined by the Secretary of Agriculture, which participates in the Food Order Stamp Program. The Federal Surplus Commodities Corporation shall designate the areas in which the food order stamps may be used.

[SEAL] FEDERAL SURPLUS COMMODITIES CORPORATION.
By MILO PERKINS.

Date, September 22, 1939.
Approved, Sept. 25, 1939.

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39–3539; Filed, September 25, 1939; 12:50 p. m.]

AGRICULTURAL ADJUSTMENT ADMINISTRATION

PART 727—FLUE-CURED TOBACCO

NATIONAL MARKETING QUOTA, MARKETING YEAR BEGINNING JULY 1, 1940

Whereas the Agricultural Adjustment Act of 1938, as amended, provides:

SEC. 312. (a) Whenever the Secretary [of Agriculture] finds that the total supply of tobacco as of the beginning of the marketing year then current exceeds the reserve supply level therefor, the Secretary shall proclaim the amount of such total supply, and, beginning on the first day of the marketing year next following and continuing throughout such year, a national marketing quota shall be in effect for the tobacco marketed during such marketing year. The Secretary shall also determine and specify in such proclamation the amount of the national marketing quota in terms of the total quantity of tobacco which may be marketed, which will make available during such marketing year a supply of tobacco equal to the reserve supply level. Such proclamation shall be made not later than the 1st day of December in such year.

and

Whereas said Act contains, in section 301 (b), the following definitions of terms here pertinent:

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[3] Secs. 301.52–2 to 301.52–4 issued under authority of sec. 8, 37 Stat. 318; 39 Stat. 1165; 44 Stat. 250; 7 U.S.C. 161.

[1] 4 F.R. 3575 DI.

"Total supply" of tobacco for any marketing year shall be the carry-over at the beginning of such marketing year plus the estimated production thereof in the United States during the calendar year in which such marketing year begins * * *.

"Carry-over" of tobacco for any marketing year shall be the quantity of such tobacco on hand in the United States at the beginning of such marketing year, which was produced in the United States prior to the beginning of the calendar year then current * * *.

"Marketing year" means, in the case of the following commodities, the period beginning on the first and ending with the second date specified below:

* * * * *

Tobacco (flue-cured), July 1–June 30

* * *.

"Reserve supply level" of tobacco shall be the normal supply plus 5 percentum thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty.

The "normal supply" of tobacco shall be a normal year's domestic consumption and exports plus 175 per centum of a normal year's domestic consumption and 65 per centum of a normal year's exports as an allowance for a normal carry-over.

"Normal year's domestic consumption", in the case of * * * tobacco, shall be the yearly average quantity of the commodity produced in the United States that was consumed in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

"Normal year's exports" in the case of * * * tobacco * * * shall be the yearly average quantity of the commodity produced in the United States that was exported from the United States during the ten marketing years * * * immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

and

Whereas said Act provides, in section 301 (c), that "The latest available statistics of the Federal Government shall be used by the Secretary [of Agriculture] in making the determinations required to be made by the Secretary under this Act.":

Now, therefore, be it known that I, Secretary of Agriculture of the United States of America, acting under and pursuant to, and by virtue of, the authority vested in me by section 312 of the Agricultural Adjustment Act of 1938, as amended, upon the basis of the latest available statistics[1] of the Federal Government, do hereby find, determine, specify, and proclaim that;

§ 727.201 *Findings and determinations with respect to national marketing quota for flue-cured tobacco, for marketing year beginning July 1, 1940*—(a) *Reserve supply level.* The reserve supply level of flue-cured tobacco is 1,785,000,000 pounds.

(b) *Total supply.* The total supply of flue-cured tobacco for the marketing year for such tobacco beginning July 1, 1939, was 1,961,000,000 pounds and exceeds the reserve supply level of such tobacco.

(c) *National marketing quota.* The amount of the national marketing quota for flue-cured tobacco in terms of the total quantity of such tobacco which may be marketed, which will make available during the marketing year beginning July 1, 1940, a supply of such tobacco equal to the reserve supply level of such tobacco, is 618,000,000 pounds. (Sec. 312 (a), 52 Stat. 46; 7 U.S.C. Sup. IV, 1312; as amended by 53 Stat. 1261).

Done at Washington, D. C., this 25th day of September 1939. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39–3538; Filed, September 25, 1939; 12:49 p. m.]

[1] Rounded to the nearest 1,000,000 pounds.

TITLE 18—CONSERVATION OF POWER

FEDERAL POWER COMMISSION

[Order No. 63]

SECTION 260.1—ORDER PRESCRIBING FORM OF FINANCIAL AND STATISTICAL REPORT FOR NATURAL-GAS COMPANIES AS DEFINED IN THE NATURAL GAS ACT

SEPTEMBER 6, 1939.

Commissioners: Clyde L. Seavey, Chairman; Claude L. Draper, Basil Manly, Leland Olds, John W. Scott.

The Federal Power Commission, acting pursuant to authority granted by the Natural Gas Act, particularly Sections 10 (a) and 16 thereof, and finding such action necessary and appropriate for carrying out the provisions of said Act,

(1) Hereby adopts, promulgates and prescribes for use of natural-gas companies as defined in the Natural Gas Act (52 Stat. 821) the accompanying form[1] of Financial and Statistical Report, designated as F. P. C. Form No. 133 and comprising—

General Instructions;
Excerpts from the Natural Gas Act;
Corporations Controlled by Respondent;
Corporate Control Over Respondent;
Officers and Directors;
Security Holders and Voting Powers;
Comparative Balance Sheet;
Investments in Associated Companies;
Capital Stock;
Long-Term Debt Outstanding (Bonds and Long-Term Notes);
Advances from Associated Companies (Long-Term);
Utility Plant;
Income and Earned Surplus Account;
Gas Operating Revenues;
Gas Operating Expenses;
Sales of Gas—By Communities;
Sales to Other Gas Utilities;
Gas Purchased;
Gas Transported for Others;
Gas Produced, Purchased, and Disposed of;
Natural Gas Land Acreage:

A. Natural Gas Land Acreage,
B. Estimated Reserves by Fields;

Number of Gas and Oil Wells;
Compressor and Booster Stations;
Gathering Mains;
Transmission Mains;
Natural Gas Production Statistics;
Verification; and

(2) Hereby orders that each natural-gas company as defined in the Natural Gas Act (52 Stat. 821) shall file with the Commission three executed copies of such Financial and Statistical Report on the aforesaid form (F.P.C. Form No. 133) for the year 1939, said report to be filed on or before February 29, 1940.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 39–3528; Filed, September 25, 1939; 10:00 a. m.]

[1] Filed as a part of the original document with the Division of the FEDERAL REGISTER, The National Archives; requests for copies should be addressed to the Federal Power Commission.

TITLE 29—LABOR

WAGE AND HOUR DIVISION

PART 516—REGULATIONS ON RECORDS TO BE KEPT BY EMPLOYERS

The following amendment to Regulations—Part 516[1] as amended—(Regulations on Records To Be Kept by Employers Pursuant to Section 11 (c) of the Fair Labor Standards Act of 1938) is hereby issued. Said amendment to Part 516, as amended, amends Section 516.90, as amended,[2] prescribing regulations on records to be kept by employers of industrial home workers by providing that said Section 516.90 shall remain in effect until repealed or modified by the Administrator.

Signed at Washington, D. C., this 23rd day of September, 1939.

ELMER F. ANDREWS,
Administrator.

§ 516.90 *Regulations on records to be kept by employers of industrial home workers, pursuant to section 11 (c) of the Fair Labor Standards Act.* Every employer subject to any provisions of the Fair Labor Standards Act or any order issued under this Act who directly or indirectly distributes work to be performed by an industrial home worker shall be relieved of the provisions for record-keeping contained in Sections 516.1, 516.2, 516.3, and 516.4 (b) of these Regulations with respect to such industrial home worker and shall, in lieu of such requirements, make and preserve, records containing the following information with respect to each such industrial home worker engaged on work dis-

[1] 3 F.R. 2533 DI.
[2] 4 F.R. 968, 1211 DI.

tributed directly by such employer or indirectly in his interest:

(a) Name in full.
(b) Home address.
(c) Date of birth if under 19.
(d) With respect to each lot of work issued.

(1) Date and hour on which work is given out to worker, and amount of such work given.
(2) Date and hour on which work is returned by worker, and amount of such work returned.
(3) Kind of articles worked on and operations performed.
(4) Piece rates paid.
(5) Hours worked on each lot of work returned.
(6) Wages paid for each lot of work returned.
(7) Deductions for Social Security taxes.
(8) Date of payment.

(e) With respect to each week:

(1) Hours worked each week.
(2) Wages earned each week at regular piece rates.
(3) Extra pay each week for overtime.
(4) Total wages earned each week.
(5) Deductions for Social Security taxes.

(f) Name and address of each agent, distributor, or contractor through whom home work is distributed.

In addition to the keeping of the above records, a separate handbook (to be obtained by the employer from the Wage and Hour Division and supplied by him to each worker) shall be kept for each industrial home worker, and the information required therein shall be entered by the employer or the person distributing home work on behalf of such employer each time work is given out to or received from an industrial home worker.

Except for the time necessary for the making of entries by the employer, the handbook must remain in the possession of the industrial home worker until such time as the Wage and Hour Division may request it.

A separate record and a separate handbook must be kept for each individual performing work in or about a home on any lot or amount of home work distributed.

For the purpose of this section, the term "Industrial Home Worker" means any person producing in or about a home, for an employer, goods from material furnished directly by or indirectly for such employer.

This section shall be in force and effect until repealed or modified by the Administrator.[1]

[F. R. Doc. 39-3529; Filed, September 25, 1939; 11:18 a. m.]

[1] Issued under the authority contained in Section 11 (c), 52 Stat. 1060.

TITLE 45—PUBLIC WELFARE

NATIONAL YOUTH ADMINISTRATION

[Administrative Order No. 5]

PART 402—REGULATIONS RELATING TO THE PART-TIME EMPLOYMENT OF OUT OF SCHOOL YOUTH ON PROJECTS OF THE NATIONAL YOUTH ADMINISTRATION*

TABLE OF CONTENTS

*Sections 1 to 27 inclusive, issued under the authority contained in the Emergency Relief Appropriation Act of 1939, approved June 30, 1939, Pub. Res. No. 24, 76th Congress, 1st Session.

By virtue of and pursuant to the authority vested in the Administrator of the National Youth Administration by the Emergency Relief Appropriation Act of 1939, approved June 30, 1939, the following rules and regulations are prescribed.

DEFINITIONS

§ 402.1 *Projects.* The term "project" as used herein shall mean projects or portions of projects, for the employment and training of out-of-school youth, which are financed in whole or in part from funds appropriated to the National Youth Administration by the Emergency Relief Appropriation Act of 1939.

§ 402.2 *Resident projects.* The term "resident projects," as used herein shall mean projects which involve the maintenance of youth in camps, dormitories or other resident facilities under the supervision of the National Youth Administration. Resident projects are further defined as follows:

(a) *Full-time.* The term "full-time resident projects," as used herein, shall mean resident projects to which youth are assigned for periods of continuous residence at such facilities for 30 or more consecutive days.

(b) *Part-time.* The term "part-time resident projects," as used herein, shall mean resident projects to which youth are assigned for periods of continuous residence at such facilities for less than 30 consecutive days.

§ 402.3 *Project employees.* The term "project employees" as used herein shall mean all persons engaged upon projects and paid by means of a pay roll payment from funds authorized for the operation of such projects. Project employees are further defined as follows:

(a) *Youth employees.* The term "youth employees" as used herein shall mean persons between the ages of 18 and 24 years inclusive, certified as in need, engaged upon a part-time basis on projects, and paid by means of pay roll payments from funds authorized for the operation of such projects.

(b) *Supervisory employees.* The term "project supervisory employees" as used herein shall mean persons in supervisory positions engaged upon projects who are paid upon a per diem or monthly basis by means of pay roll payments from funds authorized for the operation of such projects.

HOURS OF WORK

§ 402.4 *Responsibilities.* The State Youth Administrator shall be responsible for determining the hours of work for project employees in accordance with the provisions hereinafter prescribed.

§ 402.5 *Maximum hours.* Hours of project work for youth employees shall not exceed 8 hours per day, 40 hours per week and 100 hours per month, except in the case of:

(a) *Exemptions by Administrator.* Such projects, portions of projects, or areas as the National Youth Administrator, or his authorized representative, may have exempted from the maximum hour provisions of Administrative Order No. 2, dated July 13, 1939, or may hereafter exempt;

(b) *Emergencies.* An emergency involving the public welfare or to protect work already done on a project when so authorized by the State Youth Administrator.

(c) *Making up lost time.* Making up time lost due to conditions which in the judgment of the State Youth Administrator warrant authorizing youth employees to make up lost time; or

(d) *Resident projects.* Resident projects, to which youth employees shall be assigned upon the basis of a 30-day service status.

§ 402.6 *Related training.* Youth employees may be required to participate in a program of related training, which may be included in their monthly assigned hours: *Provided,* That the total assigned hours do not exceed 100 hours per month. Within the maximum assigned hours provided herein, youth employees shall be considered in pay roll status for the entire period during which they are under the supervision of the National Youth Administration.

§ 402.7 *Supervisory employees.* The hours of work for project supervisory employees shall be established by the State Youth Administrator in accordance with the requirements of the project to which the employee is assigned.

MONTHLY EARNINGS AND PAYMENT FOR SERVICES

§ 402.8 *Supervisory employees' earnings.* The State Youth Administrator is authorized and directed to establish per diem or monthly earnings for project supervisory employees in accordance with the wages customarily paid for work of a similar nature in the same locality. Earnings for project supervisory employees established on a per diem or monthly salary basis are subject to the following conditions.

(a) *Per diem employees.* Project supervisory employees, who are assigned to work for a period of less than 100 hours per pay roll month or who are assigned to work for indefinite periods per pay roll month, shall be compensated upon a per diem basis of payment from funds authorized for the operation of projects. Project supervisory employees paid on a per diem basis shall be paid for their actual days of service.

(b) *Employees on monthly salary basis.* Project supervisory employees, who are assigned to work for definite schedules of not less than 100 hours per pay roll month shall be compensated for their services upon a monthly salary basis from funds authorized for the operation of projects. For project supervisory employees paid on a monthly salary basis, deductions for voluntary absence from duty shall be made in the amount of one-thirtieth of the monthly salary for each day of voluntary absence. However, no deduction shall be made for any day or days upon which the employee is not required to work. Deductions for voluntary absence from duty for a portion of a day shall be made in an amount equal to one-fourth the deduction, or multiple thereof, made for absence during a full day.

§ 402.9 *Youth employees' earnings.* The schedule of monthly earnings hereinafter prescribed shall be applicable to youth employees, except in the case of:

(a) *Exemptions by Administrator.* Such projects, portions of projects, or areas as the National Youth Administrator, or his authorized representative, may have exempted from the schedule of monthly earnings established by Administrative Order No. 2, dated July 13, 1939, or may hereafter exempt;

(b) *Making up lost time.* Making up time lost, or in the case of an emergency, as provided in Section 5;

(c) *Resident projects.* Resident projects; and

(d) *Prior exemptions; schedule of earnings.* Such projects, portions of projects, or areas, for which exemptions from the schedule of monthly earnings for unskilled and intermediate workers in Wage Region I, and for unskilled workers in Wage Regions II and III, were granted by proper authority prior to the effective date of Administrative Order No. 2: *Provided,* That the exemptions remain applicable to the specific projects, portions of projects, or areas for which they were authorized, and that no such exemptions are continued in effect under this authority on and after November 1, 1939. Exemptions authorized prior to the effective date of Administrative Order No. 2 for intermediate workers in Wage Regions II and III shall be rescinded upon the effective date of this order.

SCHEDULE OF MONTHLY EARNINGS FOR PART-TIME WORK

The schedule of monthly earnings applicable to any county shall be based upon the 1930 population of the largest municipality within the county in accordance with the following schedule:

CLASS B

Wage regions [1]	Population over 25,000	Population under 25,000
Region I	18	14
Region II	16	14
Region III	14	12

CLASS A

Region I	21	17
Region II	19	17
Region III	17	15

[1] Wage Regions include the following states:
Region I. Arizona, California, Colorado, Connecticut, Idaho, Illinois, Indiana, Iowa, Maine, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, Wisconsin, Wyoming.
Region II. Delaware, District of Columbia, Kansas, Kentucky, Maryland, Missouri, North Carolina, Oklahoma, Virginia, West Virginia.
Region III. Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, South Carolina, Tennessee, Texas.

§ 402.10 *Adjustments.* The several State Youth Administrators are authorized to make adjustments of not to exceed fifty cents (50¢) above or below the schedule of earnings prescribed in Section 9 to avoid the computation of fractional payments of less than one cent (1¢) or the assignment of hours of work which involve partial hours during any monthly pay period.

§ 402.11 *State Administrator's orders.* It shall be the responsibility of each State Youth Administrator to issue State Youth Administrator's Orders which shall constitute a schedule of assigned hours of work and monthly earnings for each class of youth employee in each county in which projects are operated. Where exemptions are authorized, supplemental schedules may be issued under the State Youth Administrator's Orders to cover special determinations for individual projects within a county or for subdivisions within a county.

§ 402.12 *Non-resident project employees.* After November 1, 1939, employment on projects within each state shall be subject to the following conditions:

(a) *Class B wage earners.* At least 80 percent of the youth employees within each state assigned to non-resident projects shall be paid in accordance with the schedule of earnings prescribed in Section 9 for Wage Class B;

(b) *Class A wage earners.* Not more than 20 percent of the youth employees within each state assigned to non-resident projects shall be paid in accordance with the schedule of earnings prescribed in Section 9 for Wage Class A.

§ 402.13 *Resident project employees.* The several State Youth Administrators are authorized and directed to establish monthly earnings for youth employees assigned to resident projects, subject to the following conditions:

(a) *Maximum earnings rate.* Except for such projects or portions of projects as the National Youth Administrator, or his authorized representative, may have exempted from the schedule of monthly earnings for resident projects established by Administrative Order No. 2, dated July 13, 1939, as amended by Administrative Order No. 4, dated August 16, 1939, and except for such projects or portions of projects as the National Youth Administrator, or his authorized representative, may hereafter exempt, the earnings rate of youth employees shall not exceed thirty dollars ($30) per pay roll month for full-time resident projects or twenty

dollars ($20) per pay roll month for part-time resident projects, with an appropriate charge for subsistence, including items such as lodging, food, sanitation, water and bathing facilities, and medical and dental care.

(b) *Net payment.* The net payment scheduled for youth employees shall be not less than eight dollars ($8) per pay roll month, after deductions for subsistence and lodging are made at the end of the pay roll month.

(c) *Only two wage classes.* Not more than two wage classes shall be established for youth employees on any single resident project.

For youth employees assigned to full-time resident projects, deductions for voluntary absence from duty shall be made in the amount of one-thirtieth of the monthly salary for each day of voluntary absence. For youth employees assigned to part-time resident projects, deductions for voluntary absence from duty shall be made on the basis of the ratio of days of assignment during the pay roll month. State Youth Administrators, or their authorized representatives, shall schedule hours of work for youth employees on resident projects. Deductions for voluntary absence from duty shall be made only when youth employees are voluntarily absent during periods when they are scheduled to work. Deductions for voluntary absence from duty for a portion of a day's scheduled work period shall be made in an amount equal to one-fourth the deduction, or multiple thereof, made for absence during a full day's scheduled work period. On both full-time and part-time resident projects, Sundays and other intervening non-work days shall not be counted in determining deductions to be made for voluntary absence.

§ 402.14 *Accident compensation.* Project employees if injured in the performance of duty and unable to work as a result thereof shall be entitled to receive payment of compensation under the provisions of the Act of February 15, 1934 (48 Stat. 351) as amended.

§ 402.15 *Pledge or assignment of wages.* Wages paid by the Federal Government may not be pledged or assigned, and any purported pledge or assignment shall be null and void.

CONDITIONS OF EMPLOYMENT

§ 402.16 *Need.* The certification of need of youth employees shall be made by public relief agencies approved by the State Youth Administrator, or in lieu thereof, shall be the responsibility of the State Youth Administrator or his authorized representative. For the purpose of certification, a youth employee shall be defined as needy if he is:

(a) *With family.* A member of a family whose income is insufficient to provide the basic requirements of all members of the family, including the youth member, regardless of whether the family is receiving or eligible for any form of public assistance; or

(b) *Without family.* Without family connections and his income is insufficient to provide his basic requirements.

§ 402.17 *Age and health.* No person under the age of 18 years, or whose age is 25 years or more, except project supervisory employees, and no one whose physical condition is such as to make his employment dangerous to his health or safety, or to the health or safety of others, may be employed on a project. This paragraph shall not be construed to operate against the employment of physically handicapped persons, otherwise employable, where such persons may be safely assigned to work which they can ably perform.

§ 402.18 *Safe working conditions.* All work projects shall be conducted in accordance with safe working conditions, and every effort shall be made for the prevention of accident.

§ 402.19. *Citizenship.* No person shall be employed on any project until such person has made an affidavit as to his United States citizenship. No alien shall be given employment or continued in employment on any project, even though such alien may have filed a declaration of intention to become an American citizen.

§ 402.20 *Capabilities.* No person shall be employed or continued in employment if his work habits are such or his work record shows that he is incapable of performing satisfoctorily the work to which he may be assigned.

§ 402.21 *Advocates of violence.* No person who advocates, or who is a member of an organization that advocates, the overthrow of the Government of the United States through force or violence shall be eligible for any employment which is compensated from funds appropriated to the National Youth Administration.

§ 402.22 *Oath of Allegiance.* No person may be assigned as a project supervisory employee unless such person executes an oath of allegiance before engaging in project employment.

§ 402.23 *Offers of employment.* Youth employees shall be expected to accept bona fide offers of public or private employment provided that:

(a) *Capabilities.* The employee is capable of performing such work;

(b) *Prevailing wage.* The wage for such employment is not less than the prevailing wage for such work in the community;

(c) *Union relationship.* Such employment is not in conflict with established union relationships; and

(d) *Working conditions.* Such employment provides reasonable working conditions.

No youth employee who refuses a bona fide offer of private employment under the conditions provided in this section shall be retained in employment for the period such private employment would be available. However, a worker shall be entitled to immediate resumption of his previous employment status if he is still in need and if he has lost his private employment through no fault of his own. Youth awaiting assignment who refuse to accept private employment shall be ineligible for employment on any project for the period during which the private employment would be available.

§ 402.24 *Political activities.* All persons paid from funds appropriated to the National Youth Administration shall observe the following rules relating to political activities:

(a) *No favors or rewards.* No person, directly or indirectly, shall promise any employment, position, work, compensation, or other benefit provided or made possible under the program of the National Youth Administration to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party in any election.

(b) *No discrimination.* No person shall deprive, attempt to deprive, or threaten to deprive by any means, any person of any employment, position, work, compensation, or other benefit provided or made possible under the program of the National Youth Administration on account of race, creed, color, or any political activity, support of, or opposition to any candidate or any political party in any election.

(c) *No solicitation.* No person shall knowingly solicit or knowingly be in any manner concerned in soliciting any assessment, subscription or contribution for the campaign expenses of any individual or political party from any person entitled to or receiving compensation or employment provided for by the program of the National Youth Administration.

(d) *No interference in elections.* No person employed in any administrative or supervisory capacity by any agency of the Federal Government whose compensation or any part thereof is paid from funds appropriated to the National Youth Administration shall use his official authority or influence for the purpose of interfering with an election or affecting the results thereof. While such persons shall retain the right to vote as they please and to express privately their opinions on all political subjects, they shall take no active part directly or indirectly in political management or in political campaigns or in political conventions. Any persons who violate the provisions of this section shall be subject to immediate discharge.

(e) *No running for political office.* No person employed in any administrative or supervisory capacity may be a candidate for any state, district, county, or municipal office (such office requiring full time of such person and to which office a salary or per diem attaches), in any primary, general or special election or who is serving as a campaign man-

ager or assistant thereto for any such candidate.

(f) *No furnishing lists for political purposes.* No person shall furnish or disclose, or assist in furnishing or disclosing, for political purposes, any list or names of persons receiving compensation or benefits provided for by the program of the National Youth Administration, to a political candidate, committee, or campaign manager, or to any person for delivery to a political candidate, committee, or campaign manager.

§ 402.25 *Voting.* Every person working for the National Youth Administration who is of legal age and meets other legal requirements retains his right to vote in any election, for any candidate he chooses. When the hours during which polling places are open or any other conditions prevent employees from freely exercising their voting privileges, scheduled hours of work may be adjusted to provide the necessary time for this purpose. Project employees shall not be paid for any allowance of time during which to vote, but they shall be permitted through a re-scheduling of hours to work their full quota of hours during the pay roll month in which the time off is granted.

ASSIGNMENT, CLASSIFICATION AND SEPARATION

§ 402.26 *Responsibility.* The State Youth Administrator or his authorized representative shall be responsible for the assignment, classification, transfer and termination of project employees paid from funds appropriated to the National Youth Administration. Youth employees shall be registered with employment offices designated by the Bureau of Employment Security of the Social Security Board.

EFFECTIVE DATE

§ 402.27 *Superseded and rescinded material.* These rules and regulations shall become effective at the beginning of pay roll periods on and after September 15, 1939, and shall supersede Administrative Order No. 2, dated July 13, 1939, and Administrative Order No. 4, dated August 16, 1939,[1] which shall be rescinded upon the effective date of this order.

AUBREY WILLIAMS,
Administrator.

SEPTEMBER 15, 1939.

[F. R. Doc. 39-3521; Filed, September 23, 1939; 9:46 a. m.]

TITLE 46—SHIPPING

BUREAU OF MARINE INSPECTION AND NAVIGATION

CUSTOMS PORTS AUTHORIZED TO ISSUE MARINE DOCUMENTS

§ 1.1 *Customs ports authorized to issue marine documents.* The designation of the customs port of Des Moines, Iowa as a port of documentation is revoked effective September 22, 1939, and the words "Iowa (44) Des Moines" are deleted from the section.

The port of Chicago, Illinois will, thereafter be the home port of all vessels whose home port on September 22, 1939, is Des Moines, Iowa. In the event that the owners of vessels desire that a port other than Chicago be designated as the home port of their vessels, the approval of the Director, Bureau of Marine Inspection and Navigation, Department of Commerce, should be obtained.*

[Section 161 R.S. (5 U.S.C. 22); Sections 2 and 3 of the Act of July 5, 1884 (25 Stat. 118) (46 U.S.C. 2 and 3)]

[SEAL] J. M. JOHNSON,
Acting Secretary of Commerce.

[F. R. Doc. 39-3519; Filed, September 22, 1939; 3:47 p. m.]

[1] 4 F.R. 3507, 3710 DI.

*Title, chapter, and section numbers used herein correspond to those used in the codified regulations of the Bureau of Marine Inspection and Navigation, Department of Commerce, filed with the Codification Board June 30, 1938. Section 1.1 was originally Section 600.1 of Title 10, CFR.

[1] 4 F.R. 1355 DI.

Notices

DEPARTMENT OF AGRICULTURE.

Food and Drug Administration.

[FDC-7 (A)]

IN THE MATTER OF PUBLIC HEARING FOR PURPOSE OF RECEIVING EVIDENCE UPON BASIS OF WHICH REGULATIONS MAY BE PROMULGATED FIXING AND ESTABLISHING A DEFINITION AND STANDARD OF IDENTITY FOR EACH OF THE FOLLOWING FOODS: CREAM, LIGHT CREAM, COFFEE CREAM, TABLE CREAM

REPORT OF PRESIDING OFFICER, SUGGESTED FINDINGS OF FACT, SUGGESTED CONCLUSIONS AND ORDER

Report of Presiding Officer

Pursuant to, and under the authority of, a notice in the above-entitled matter issued and filed by the Secretary of Agriculture on March 25, 1939, with the Archivist of the United States and published in the FEDERAL REGISTER (Vol. 4, No. 59, pp. 1355-1356), Tuesday, March 28, 1939[1] wherein the undersigned was designated as Presiding Officer to conduct in the place of the Secretary the public hearing herein, such hearing being in conformity with Section 701, subsection (e), of the Federal Food, Drug, and Cosmetic Act [Sec. 701, 52 Stat. 1055; 21 U.S.C. 371 (e)], and under and by virtue of the authority in said notice specifically recited (Sec. 401, 52 Stat. 1046; 21 U.S.C. 341), the said hearing was convened, as were all the hearings therein called, by the undersigned Presiding Officer at the time and place specified in said notice. Thereupon, there was read into the record that portion of said notice of the Secretary setting the time and place for the hearings; stating the purposes thereof; making specific reference to the proposed regulations, thereinafter set forth, and reciting that such proposed regulations were subject to adoption, rejection, amendment, or modification by the Secretary, in whole or in part, as the evidence adduced at the respective hearings warranted; making specific reference to the Rules of Procedure governing all the hearings published in the FEDERAL REGISTER January 13, 1939,[2] and designating the Presiding Officer.

Five copies of the FEDERAL REGISTER dated March 28, 1939, containing the notice and proposals of the Secretary, were offered and received in evidence, and each was marked "Government's Exhibit No. 1".

Certain announcements applicable to this hearing, as well as to all the hearings covered by said notice, were made with respect to the order of the procedure within the discretion of the Presiding Officer under the Rules hereinbefore mentioned; and as to appearances, the filing or suggested Findings of Fact, Conclusions and Order by the Presiding Officer, notice thereof, and the time that would be allowed for the filing of objections and exceptions thereto, proposed findings, written arguments and briefs by interested parties. Thereupon, the general order in which the several hearings would be held was announced; and subsequently this hearing was continued until 10:15 o'clock, A. M., May 10, 1939, at Room 3106, South Building, Department of Agriculture, Washington, D. C., where it proceeded, with several adjournments and intermissions intervening, until 1:45 o'clock, P. M., May 12, 1939, at which time the hearing was formally closed.

A review of the evidence, as well as the proposed findings of fact, briefs and arguments, discloses no substantial conflict with respect of the percentage of the output of cream passing across State lines; the minimum milk fat content of cream suggested under the Federal Advisory standard; the prevailing minimum milk fat content of most of the cream now on the market; the inexactness of the Babcock plant test generally used during the conditioning and adjusting process for determining and controlling the milk fat content of cream; and the accuracy and reliability of the Roese-Gottlieb method for ascertaining such milk fat content in the finished product.

There are points of conflict in the evidence, however, with respect of the principal subject matter of the hearing, namely, the definition and standard of identity for cream within the milk fat range of the proposal of the Secretary; the common or usual name or names for cream within the proposed range; and the method which should be prescribed for ascertaining the milk fat content of cream.

[2] 4 F.R. 223 DI.

Since the Federal Advisory Standard, or Standards, is frequently mentioned in the evidence and two of the Findings of Fact are based thereon, it should be here stated that such standards were based upon technical information and data acquired by the Food Standards Committee, a committee set up by the Department of Agriculture, and that committee's recommendation thereon to the Secretary, in the form of proposed administrative regulations, which, when adopted and announced by the Secretary, were known as Federal Advisory Standards. Since the enactment of the Federal Food, Drug, and Cosmetic Act of 1938, such information and data become the basis for proposed regulations which become the subject matter of public hearings under the Act. [R. 13–14; Fed. Food, Drug, and Cosmetic Act (52 Stat. 1040; 21 U.S.C. 301; Sec. 401 (52 Stat. 1046; 21 U.S.C. 341); Sec. 701 (a), (e) (52 Stat. 1055; 21 U.S.C. 371 (a), (e))]

In making findings of fact herein in respect of common or usual names, consideration has been given to the informative character of such names; and in respect of the method of determining the milk fat content, one of the principal factors entering into a definition and standard of identity, consideration has been given to exactness, reliability and scientific recognition.

Upon the basis of substantial evidence received at the hearing and appearing in the transcript, to which specific references are made in each instance following each of the findings, the undersigned Presiding Officer makes and suggests the findings of fact hereinafter set forth; and he further suggests that the Secretary of Agriculture issue an order setting out therein and as part thereof such findings of fact, omitting therefrom references to the pages of the Transcript of evidence, and that in and by such order the Regulation hereinafter set forth be promulgated:

Suggested Findings of Fact

Meaning of milk as used herein. The word "milk" as used in these findings means cows' milk.

1. *Cream—Identity in General.* Cream, in general, is the sweet, fatty liquid or semi-liquid separated from milk, with or without the addition thereto and intimate admixture therewith of sweet milk or sweet skim milk. It may be pasteurized or homogenized, or pasteurized and homogenized. (R., 32, 33, 92, 121, 135)

2. *Percentage crossing State lines.* That approximately 2 percent of the output of cream in the United States passes in commerce across State lines. (R., 71, 85, 98)

3. *Federal advisory standard—Minimum milk fat.* The Federal Advisory Standard for minimum milk fat of 18 percent for cream was established by the Department of Agriculture in 1903, and had not been changed up to the time of the enactment of the Federal Food, Drug, and Cosmetic Act of 1938; and in 1919 a minimum fat content for whipping cream of 30 percent was so established, and had not been changed up to the time of the enactment of said act. (R., 15)

4. *Federal advisory standard followed.* That more than one-third of the States have adopted and now follow the Federal Advisory Standard fixing the minimum milk fat content for cream at 18 percent; and such standard is permissive in other States. (R., 39, 40, 41, 79–80, 111; O. I. P. Ex. No. 4).

5. *Range milk fat content—Designation—Not uniform.* There are wide variations in the milk fat range, as well as in the designation, of cream as among and within the several States and cities where the range and designation are not established by law. (R., 20, 71, 75, 76, 84, 133–134; Gov. Ex. No. 2; O. I. P. Exs. Nos. 1, 2, 3)

6. *Minimum milk fat content established by States—Designations.* That more than three-fifths of 40 States which have established minimum standards for cream have established a minimum of 18 percent for "Cream"; five States a minimum of 18 percent for "Light Cream"; 17 States a minimum of 30 percent for "Whipping Cream", of which States 15 have established both a minimum milk fat content for "Cream" at 18 percent and for "Whipping Cream" at 30 percent. (R., 18–20, 77, 104, 111, 125, 135; Gov. Ex. No. 2; O. I. P. Ex. No. 4)

7. *Babcock milk fat test approximate.* That the Babcock test is a well known and generally recognized test used in many milk plants during the conditioning and adjusting process for determining and controlling the milk fat content of cream; that by this test a quick approximation may be made of the milk fat content; that such content cannot thereby be accurately determined, but only approximately within a range of one-half to one percent of the true milk fat content; that to assure a definite milk fat content in the finished product, when this test is used during the adjusting process in the plant, it is necessary to allow for a variation of from one percent to two percent. (R., 95, 99–100, 103, 105, 111–112)

8. *Roese-Gottlieb method accurate.* That the Roese-Gottlieb method, as set forth in "Official and Tentative Methods Of Analysis Of The Association Of Official Agricultural Chemists", Fourth Edition, 1935, page 277, under the caption, "Fat, Roese-Gottlieb Method—Official", is a well known, accurate and generally recognized method for ascertaining definitely the milk fat content of cream; that this method is not generally used in plants during the conditioning and adjusting process; that the time required by this method renders its use undesirable as a part of the adjusting or processing technique. (R., 26–29, 92, 111–112)

9. *Prevailing minimum milk fat content.* That most of the cream on the market at this time which contains less than 30 percent milk fat has a minimum milk fat content of 20 percent or more (R., 22–25, 126, 127; Gov. Ex. No. 3; O. I. P. Ex. No. 1).

10. *Milk fat range—Common or usual names—Synonymous names.* That the common or usual names for cream containing milk fat of not less than 18 percent but less than 30 percent are: "Cream", "Light Cream", "Coffee Cream", "Table Cream"; that those names are synonymous for cream of that milk fat range. (R., 18–20, 23–25, 57–58, 111, 124–125, 135; Gov. Ex. No. 2; O. I. P. Ex. No. 2)

Suggested Conclusions and Order

Upon the basis of the foregoing Findings of Fact, it is concluded that the following regulation should be promulgated:

REGULATION FIXING AND ESTABLISHING A REASONABLE DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD COMMONLY KNOWN AS CREAM, LIGHT CREAM, COFFEE CREAM, TABLE CREAM

§ 18.500 *Cream—Light Cream, Coffee Cream, Table Cream—Identity.* Cream, Light Cream, Coffee Cream, Table Cream, is the sweet, fatty liquid or semiliquid separated from milk, with or without the addition thereto and intimate admixture therewith of sweet milk or sweet skim milk. It may be pasteurized or homogenized, or both. It contains not less than 18 percent, but less than 30 percent, of milk fat, as determined by the method prescribed in "Official and Tentative Methods of Analysis Of The Association of Official Agricultural Chemists", Fourth Edition, 1935, page 277, under "Fat, Roese-Gottlieb Method—Official". For the purposes of this section the word "milk" means cows' milk.

Time Allowed for Filing Objections and Exceptions

Within 10 days after the receipt of a copy of the FEDERAL REGISTER containing this report, together with the suggested findings of fact, conclusions in the form of a regulation, and order, any interested party may transmit to and file with the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Washington, D. C., objections to any matter set out therein, and written argument or brief in support of any exceptions to any rulings of the Presiding Officer at said hearing, such objections or exceptions making specific reference to the pertinent pages of the Transcript

of the Evidence and the proceedings, or to the pertinent findings or conclusions.

This the 14th day of September 1939.

[SEAL] FRANK S. HASSELL,
Presiding Officer.

[F. R. Doc. 39-3536; Filed, September 25, 1939; 12:49 p. m.]

[FDC-7 (B)]

IN THE MATTER OF PUBLIC HEARING FOR PURPOSE OF RECEIVING EVIDENCE UPON BASIS OF WHICH REGULATIONS MAY BE PROMULGATED FIXING AND ESTABLISHING A DEFINITION AND STANDARD OF IDENTITY FOR THE FOLLOWING FOOD: WHIPPING CREAM, HEAVY CREAM

REPORT OF PRESIDING OFFICER, SUGGESTED FINDINGS OF FACT, SUGGESTED CONCLUSIONS AND ORDER

Report of Presiding Officer

Pursuant to, and under the authority of, a notice in the above-entitled matter issued and filed by the Secretary of Agriculture on March 25, 1939, with the Archivist of the United States and published in the Federal Register (Vol. 4, No. 59, pp. 1355-1356), Tuesday, March 28, 1939,[1] wherein the undersigned was designated as Presiding Officer to conduct in the place of the Secretary the public hearing herein, such hearing being in conformity with Section 701, Subsection (e), of the Federal Food, Drug, and Cosmetic Act [Sec. 701, 52 Stat. 1055; 21 U.S.C. 371 (e)], and under and by virtue of the authority in said notice specifically recited (Sec. 401, 52 Stat. 1046; 21 U.S.C. 341), the said hearing was convened, as were all the hearings therein called, by the undersigned Presiding Officer at the time and place specified in said notice. Thereupon, there was read into the record that portion of said notice of the Secretary setting the time and place for the hearings; stating the purposes thereof; making specific reference to the proposed regulations, thereinafter set forth, and reciting that such proposed regulations were subject to adoption, rejection, amendment, or modification by the Secretary, in whole or in part, as the evidence adduced at the respective hearings warranted; making specific reference to the Rules of Procedure governing all the hearings published in the Federal Register January 13, 1939,[2] and designating the Presiding Officer.

Five copies of the FEDERAL REGISTER dated March 28, 1939, containing the notice and proposals of the Secretary, were offered and received in evidence, and each was marked "Government's Exhibit No. 1."

Certain announcements applicable to this hearing, as well as to all the hearings covered by said notice, were made with respect to the order of the procedure within the discretion of the Presiding Officer under the Rules hereinbefore mentioned; and as to appearances, the filing of suggested Findings of Fact, Conclusions and Order by the Presiding Officer, notice thereof, and the time that would be allowed for the filing of objections and exceptions thereto, proposed findings, written arguments and briefs by interested parties. Thereupon, the general order in which the several hearings were to be held was announced, and subsequently this hearing was adjourned until 1:45 o'clock, p. m., May 10, 1939, at Room 3106, South Building, Department of Agriculture, Washington, D. C., where it proceeded on May 10, 1939, and, after adjournment over on the following day, on May 12, 1939, until 1:45 o'clock, p. m. at which time the hearing was formally closed.

Although there were many matters within the scope of the hearing concerning which there was little conflicting evidence, there was considerable conflict in the evidence upon the principal subject matter of the hearing, namely, a definition and standard of identity for Whipping Cream or Heavy Cream. The points of conflict in the evidence revolved around the milk fat ranges within, approximately, the range set forth in the proposals of the Secretary, as such ranges vary in various sections of the country and particularly in those States and cities where such range has not been established by law; and coincident with such varying ranges, and frequently within the same range and in the same States and cities, the varied and multiple designations assigned to products within the same or similar milk fat ranges.

Upon the whole record, it appears that the names "Whipping Cream" and "Heavy Cream" are not synonymous throughout the United States; that they are not applied to one product with a definite milk fat range. Although there are many and varied regional and local designations for products with varying milk fat ranges within the range, or the approximate range, of the proposal of the Secretary, many such designations, or names, may not be known as common or usual names, nor recognized as such, in the absence of knowledge by consumers, generally, throughout the country, of the respective identities of the products to which such names are applied.

The Federal Advisory Standard, the basis of two of the findings of fact, was based upon technical information and data acquired by the Food Standards Committee, a committee set up by the Department of Agriculture. The recommendation of that committee in the form of a proposed administrative regulation became, when adopted and announced by the Secretary, what was known as the Federal Advisory Standard. Since the enactment of the Federal Food, Drug, and Cosmetic Act of 1938, such information and data so acquired by the Food Standards Committee become the basis for regulations proposed by the Secretary; and such proposed regulations in turn become the subject matter of public hearings under that act.

In making herein suggested findings of fact in respect of common or usual names, the vast area of the country and the many and varied regional and local trade practices obtaining have not been overlooked, nor has the informative, or lack of informative, character of such names to consumers generally; and likewise, in respect of the method of determining the milk fat content of the product, one of the principal factors entering into a definition and standard of identity, exactness, reliability and scientific recognition, or the lack thereof, has not been overlooked.

Upon the basis of substantial evidence received at the hearing and appearing in the transcript, to which specific references are made in each instance following each of the findings, the undersigned Presiding Officer makes and suggests the findings of fact hereinafter set forth; and he further suggests that the Secretary of Agriculture issue an order setting out therein and as part thereof such findings of fact, omitting therefrom references to the pages of the transcript of evidence, and that in and by such order the Regulations hereinafter set forth be promulgated:

Suggested Findings of Fact

1. *Cream—Identity in General.* That cream, in general, is the sweet, fatty liquid or semiliquid separated from cows' milk, with or without the addition thereto and intimate admixture therewith of sweet milk or sweet skim milk. It may be pasteurized or homogenized, or pasteurized and homogenized. (R. 102-104, 113-114)

2. *Percentage Crossing State Lines.* That approximately 2 percent of the output of cream in the United States passes in commerce across State lines. (R. 49-50)

3. *Whipping Cream—Federal Advisory Board Minimum Milk Fat.* That the Department of Agriculture in 1919 established a minimum milk fat content for whipping cream of 30 percent; that this was known as the Federal Advisory Standard; that such Advisory Standard had not been changed up to the time of the enactment of the Federal Food, Drug, and Cosmetic Act of 1938. (R. 14-15).

4. *Federal Advisory Standard Followed.* That one-third of the States have established a minimum milk content of not less than 30 percent for a product which is designated as whipping cream, and such standard is permissive in other States. (R. 20, 31, 32, 37; Gov't. Ex. No. 2)

5. *Lack of Uniformity in Milk Fat Range and Designation—Whipping Cream—Heavy Cream.* That there are many variations in the milk fat range and much diversity in the designations of cream on the market containing not less than 30 percent milk fat and within

[1] 4 F.R. 1355 DI.
[2] 4 F.R. 223 DI.

the several States and cities where no standards and designations are established by law; that the term "Whipping Cream" or "Light Whipping Cream" is most frequently used to identify cream containing not less than 30 percent milk fat; that the term "Heavy Cream", or "Heavy Whipping Cream", is most frequently used to identify cream containing not less than 36 percent milk fat. (R. 30–32, 35–37, 40, 92–93, 95; Gov't Ex. No. 2; O. I. P. Ex. Nos. 1, 2, 3)

6. *Prevailing Milk Fat Range of Whipping Cream.* That most of the product on the market at this time, which is designated as "Whipping Cream", or "Light Whipping Cream", contains not less than 30 percent, but less than 36 percent, of milk fat. (R. 20–22, 23, 30–32, 35, 37, 40, 92–93, Gov't. Exs. Nos. 2, 3; O. I. P. Exs. Nos. 1, 2, 3)

7. *Prevailing Milk Fat Range of Heavy Cream.* That most of the product on the market at this time which is designated as "Heavy Cream", or "Heavy Whipping Cream", contains more than 36 percent milk fat. (R. 22–23, 31, 35, 39–40, Gov't. Ex. No. 3; O. I. P. Exs. Nos. 1, 2, 3)

8. *Babcock Milk Fat Test Approximate.* That the Babcock test is a test used in many milk plants during the adjusting and standardizing process to govern or gauge the milk fat content of cream; that by this test the milk fat content of cream cannot be accurately determined, but only approximately within a range of one-half to one percent of the true milk fat content; that to assure a definite milk fat content in the finished product, when this test is used during the adjusting and standardizing process, allowance for a variation of one percent is made. (R. 78–79)

9. *Roese-Gottlieb Method Accurate.* That the Roese-Gottlieb method, as set forth in *"Official And Tentative Methods Of Analysis Of The Association Of Official Agricultural Chemists"*, Fourth Edition, 1935, page 277, under the caption, *"Fat, Roese-Gottlieb Method—Official"*, is a well known, accurate and generally recognized method for ascertaining definitely the milk fat content of cream; that this method is not generally used in plants during the conditioning and adjusting process; that the time required by this method renders its use undesirable as a part of the adjusting or processing technique. (R. 24–30, 80–81, 90–91)

10. *Whipping Cream—Light Whipping Cream—Identity.* That the sweet fatty liquid or semiliquid separated from cows' milk, with or without the addition thereto and intimate admixture therewith of sweet milk or sweet skim milk, containing not less than 30 percent, but less than 36 percent, of milk fat is commonly known as "Whipping Cream" or "Light Whipping Cream". (R. 23–30, 31, 32, 35, 37, 40, 105; Gov't. Ex. No. 2; O. I. P. Exs. Nos. 1, 2, 3, 4)

11. *Heavy Cream—Heavy Whipping Cream—Identity.* That the sweet fatty liquid or semiliquid separated from cows' milk, with or without the addition thereto and intimate admixture therewith of sweet milk or sweet skim milk, containing not less than 36 percent milk fat, is commonly known as "Heavy Cream" or "Heavy Whipping Cream." (R. 31, 32, 35, 37, 40, 106; Gov't. Ex. No. 2; O. I. P. Exs. Nos. 1, 2, 3, 4)

Suggested Conclusions and Order

Upon the basis of the foregoing findings of fact, it is concluded that the following regulation should be promulgated:

REGULATION UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

REGULATION FIXING AND ESTABLISHING A REASONABLE DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD COMMONLY KNOWN AS WHIPPING CREAM, LIGHT WHIPPING CREAM

§ 18.510 *Whipping Cream — Light Whipping Cream—Identity.* Whipping Cream, Light Whipping Cream, is the sweet fatty liquid or semiliquid separated from cows' milk with or without the addition thereto and intimate admixture therewith of sweet milk or sweet skim milk. It may be pasteurized. It contains not less than 30 percent, but less than 36 percent, milk fat, as determined by the method prescribed in *"Official And Tentative Methods Of Analysis Of The Association Of Official Agricultural Chemists,"* Fourth Edition, page 277, under the caption, "Fat, Roese-Gottlieb Method—Official". For the purposes of this section the word "milk" means cows' milk.

Upon the basis of the foregoing findings of fact, it is further concluded that the following regulation should be promulgated:

REGULATION UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

REGULATION FIXING AND ESTABLISHING A REASONABLE DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD COMMONLY KNOWN AS HEAVY CREAM, HEAVY WHIPPING CREAM

§ 18.511 *Heavy Cream—Heavy Whipping Cream—Identity.* Heavy Cream, Heavy Whipping Cream, is the sweet fatty liquid or semiliquid separated from cows' milk, with or without the addition thereto and intimate admixture therewith of sweet milk or sweet skim milk. It may be pasteurized. It contains not less than 36 percent milk fat, as determined by the method prescribed in *"Official And Tentative Methods Of Analysis Of The Association Of Official Agricultural Chemists,"* Fourth Edition, page 277, under the caption, "Fat, Roese-Gottlieb Method—Official". For the purposes of this section the word "milk" means cows' milk.

Time Allowed for Filing Objections and Exceptions

Within 10 days after the receipt of a copy of the FEDERAL REGISTER containing this report, together with the suggested findings of fact, conclusions in the form of a regulation, and order, any interested party may transmit to and file with the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Washington, D. C., objections to any matter set out therein, and written argument or brief in support of any exceptions to any rulings of the Presiding Officer at said hearing, such objections or exceptions making specific reference to the pertinent pages of the Transcript of the Evidence and the proceedings, or to the pertinent findings or conclusions.

This the 14th day of September, 1939.

[SEAL] FRANK S. HASSELL,
Presiding Officer.

[F. R. Doc. 39–3537; Filed, September 25, 1939; 12:49 p. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS IN THE HOSIERY INDUSTRY

Notice is hereby given that Special Certificates for the employment of learners in the Hosiery Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 (Hosiery Wage Order) are issued to the employers listed below effective September 18, 1939, to May 18, 1940, subject to the following terms:

OCCUPATIONS AND WAGE RATES

The employment of learners in the Hosiery Industry under these Certificates is limited to the following occupations, learning periods, and minimum wage rates:

[Here follows, in the original document, a table identical with that appearing on Page 3827 of the "Federal Register" for Thursday, September 7, 1939.]

Name and address of firm	*No. of learners*
Debonair Full Fashioned Mill, Inc., Cleveland, Tennessee	10
Fornfelt Hosiery Mills, Inc., Fornfelt, Missouri	10
Orange Knitting Mills, Orange, Virginia	50
Waldensian Hosiery Mills, Inc., Valdese, North Carolina	25

These Special Certificates are issued ex parte under Section 14 of the said Act, Section 522.5 (b) of Regulations Part 522, as amended. For fifteen days following the publication of this notice the Administrator will receive detailed written objections to any of these Special Certificates and requests for hearing from interested persons. Upon due consideration of such objections as provided for in said Section 522.5 (b), such Special Certificates, or any of them, may be canceled as of the date of their issuance and if so canceled, reimbursement of all persons employed under such certificates must be made in an amount equal to the difference between the applicable

statutory minimum wage and any lesser wage paid such persons.

Signed at Washington, D. C., this 25th day of September 1939.

MERLE D. VINCENT,
Chief, Hearings and Exemptions Section.

[F. R. Doc. 39-3535; Filed, September 25, 1939; 12:39 p. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS IN THE HOSIERY INDUSTRY

Notice is hereby given that Special Certificates for the employment of learners in the Hosiery Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 (Hosiery Wage Order) are issued to the employers listed below effective September 26, 1939, to May 26, 1940, subject to the following terms:

OCCUPATIONS AND WAGE RATES

The employment of learners in the Hosiery Industry under these Certificates is limited to the following occupations, learning periods, and minimum wage rates:

[*Here follows, in the original document, a table identical with that appearing on Page 3827 of the "Federal Register" for Thursday, September 7, 1939.*]

Name and address of firm	*No. of learners*
Davis Full Fashioned Hosiery Mills, Inc., Greenville, North Carolina	62
Debs DeLite Hosiery, Inc., Norristown, Pennsylvania	6
Huffman Full Fashioned Mills, Inc., Morganton, North Carolina	10
Lewes Hosiery Mill, Inc., Lewes, Delaware	13
Myrna Lee Hosiery Mills, Inc., Towanda, Pennsylvania	18
Van Raalte Co., Inc., Athens, Tennessee	32

These Special Certificates are issued ex parte under Section 14 of the said Act, Section 522.5 (b) of Regulations Part 522, as amended. For fifteen days following the publication of this notice the Administrator will receive detailed written objections to any of these Special Certificates and requests for hearing from interested persons. Upon due consideration of such objections as provided for in said Section 522.5 (b), such Special Certificates, or any of them, may be canceled as of the date of their issuance and if so canceled, reimbursement of all persons employed under such certificates must be made in an amount equal to the difference between the applicable statutory minimum wage and any lesser wage paid such persons.

Signed at Washington, D. C., this 25th day of September 1939.

MERLE D. VINCENT,
Chief, Hearings and Exemptions Section.

[F. R. Doc. 39-3533; Filed, September 25, 1939; 12:39 p. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS IN THE HOSIERY INDUSTRY

Notice is hereby given that Special Certificates for the employment of learners in the Hosiery Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 (Hosiery Wage Order) are issued to the employers listed below effective September 26, 1939, until September 18, 1940, subject to the following terms:

OCCUPATIONS AND WAGE RATES

The employment of learners in the Hosiery Industry under these Certificates is limited to the following occupations, learning periods, and minimum wage rates:

[*Here follows, in the original document, a table identical with that appearing on Page 3827 of the "Federal Register" for Thursday, September 7, 1939.*]

NUMBER OF LEARNERS

Not in excess of 5% of the total number of factory workers employed in the plant may be employed under any of these certificates, unless otherwise indicated hereinbelow.

NAME AND ADDRESS OF FIRM

Arcadia Hosiery Co., Lansdale, Pennsylvania.

Bingham Hosiery Mill, Hickory, North Carolina (5 learners).

Blue Ridge Hosiery Mill, Marion, North Carolina (5 learners).

Bridgeton Hosiery Mill, Bridgeton, New Jersey (5 learners).

Brown, Thomas H., Hosiery Co., Inc., Brunswick, Maryland (5 learners).

Bryan Hosiery Mill, Chattanooga, Tennessee.

Chipman LaCrosse Hosiery Mills Co., East Flat Rock, North Carolina (5 learners).

Chipman LaCrosse Hosiery Mills Co., Hendersonville, North Carolina.

Cooper, Wells & Co., Decatur, Alabama.

Cooper, Wells & Co., St. Joseph, Michigan.

Devault Hosiery Mills, Devault, Pennsylvania (5 learners).

Gibsonville Hosiery Mills Co., Gibsonville, North Carolina (5 learners).

Harold Hosiery Mill, Erdenheim, Pennsylvania (5 learners).

House of Byer, Inc., The, Cambridge, Massachusetts (5 learners).

Interstate Hosiery Mills, Inc., Lansdale, Pennsylvania.

Kreider Manufacturing Co., Annville, Pennsylvania.

Lincoln Hosiery Co., Lincoln, Pennsylvania (5 learners).

Magnet Mills, Inc., Clinton, Tennessee.

Magnet Mills, Inc., Lake City, Tennessee.

Mar-Ed Hosiery Mill, Cheltenham, Pennsylvania (5 learners).

Massachusetts Knitting Mills, Columbia, Tennessee.

Maywood Silk Hosiery Mills, Inc., Cordele, Georgia (5 learners).

Pocono Hosiery Mill, Stroudsburg, Pennsylvania (5 learners).

Rambo & Regar, Inc., Norristown, Pennsylvania.

Shelton Hosiery Mills, Inc., Shelton, Connecticut (5 learners).

Stimpson Hosiery Mills, Inc., Statesville, North Carolina.

Viewmont Knitting Co., Hickory, North Carolina (5 learners).

West Orange Hosiery Mills, Inc., Hackettstown, New Jersey (5 learners).

Woosley Knitting Mills, Shelbyville, Tennessee.

These Special Certificates are issued ex parte under Section 14 of the said Act, Section 522.5 (b) of Regulations Part 522, as amended. For fifteen days following the publication of this notice the Administrator will receive detailed written objections to any of these Special Certificates and requests for hearing from interested persons. Upon due consideration of such objections as provided for in said Section 522.5 (b), such Special Certificates, or any of them, may be canceled as of the date of their issuance and if so canceled, reimbursement of all persons employed under such certificates must be made in an amount equal to the difference between the applicable statutory minimum wage and any lesser wage paid such persons.

Signed at Washington, D. C., this 25th day of September 1939.

MERLE D. VINCENT,
Chief, Hearings and Exemptions Section.

[F. R. Doc. 39-3534; Filed, September 25, 1939; 12:39 p. m.]

FEDERAL POWER COMMISSION.

[Docket Nos. IT-5580, IT-5584]

IN THE MATTER OF NEW ENGLAND POWER COMPANY AND IN THE MATTER OF BELLOWS FALLS HYDRO-ELECTRIC CORPORATION AND CONNECTICUT RIVER POWER COMPANY

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION, AND INITIATING PROCEEDINGS AND SETTING HEARING ON UNLICENSED PROJECT SITUATED ON THE CONNECTICUT RIVER IN AND NEAR BELLOWS FALLS, VERMONT

SEPTEMBER 22, 1939.

Commissioners: Clyde L. Seavey, Chairman; Claude L. Draper, Basil Manly, Leland Olds, John W. Scott.

Upon application and petition filed September 1, 1939, in the first above entitled matter, by New England Power Company (referred to as the New England Company), a Massachusetts corporation, whereby the said company:

(1) Seeks to withdraw its application, filed July 20, and amended July 22, 1939, for an order pursuant to Section 203 of the Federal Power Act authorizing and

approving the merger and consolidation of its facilities subject to the jurisdiction of this Commission with the electric facilities of the Bellows Falls Hydro-Electric Corporation (referred to as the Bellows Falls Company), a Vermont corporation, and with certain of the facilities of the Connecticut River Power Company (referred to as the Connecticut Company), a New Hampshire corporation; and

(ii) Prayed that this Commission rescind its order of July 26, setting a hearing to be held September 13, 1939, on the said application, which said hearing has been postponed to September 25, 1939;

It appearing from the application, filed July 20, 1939, as amended, and exhibits thereto, from the aforesaid application for withdrawal thereof, from the petition for a declaratory determination disclaiming jurisdiction filed June 10, 1939, as subsequently amended, by the aforesaid three companies, and from an investigation made by the Commission that:

(a) The Connecticut River from its mouth to far above Bellows Falls, Vermont, in its natural condition, prior to the construction of any improvements or obstructions, was susceptible to use and was regularly used for transportation of merchandise and lumber by boats, rafts, and otherwise, in commerce among the colonies and states of New Hampshire, Vermont, Massachusetts and Connecticut and with other colonies and states and foreign nations; was improved for navigation by numerous projects undertaken from time to time particularly during the early part of the nineteenth century; was improved for navigation past Bellows Falls by the respondent Bellows Falls Company which, under the name of The Company for Rendering Connecticut River Navigable by Bellows Falls, for more than half a century maintained and operated a dam, canal, and locks at Bellows Falls and collected substantial amounts in tolls from boats, rafts, and other traffic on the River; as improved from time to time, was used for commercial navigation which flourished for many years, by rafts, flat boats, steam boats, and otherwise; was known and recognized as an important public highway for commercial navigation by the legislatures, chief executives, courts, and people of the states of Vermont, New Hampshire, Massachusetts, and Connecticut; was used commercially for long log driving which continued at least until approximately 1915, and for pulpwood floating, which continued at least until approximately 1926; and was used until comparatively recent years for numerous ferries for the transportation of commodities, vehicles and passengers between the states of Vermont and New Hampshire;

(b) In its natural condition and as from time to time improved, the Connecticut River from its mouth to far above Bellows Falls, Vermont, was actually navigable, by boats, rafts, and otherwise, for the transportation of passengers and commodities in commerce among the colonies and states of New Hampshire, Vermont, Massachusetts and Connecticut, and with other colonies and states and foreign nations;

(c) The Connecticut River from its mouth to far above Bellows Falls, Vermont, is navigable waters of the United States within the meaning of that term as used in the several River and Harbor Acts enacted by Congress, the Federal Water Power Act and the Federal Power Act and is a stream over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several states;

(d) The Bellows Falls Company was originally chartered as a company for improving navigation on the Connecticut River, and for that purpose constructed, from time to time reconstructed, operated, and maintained a dam across Connecticut River, a canal, locks, and appurtenant facilities in the towns of Bellows Falls, Vermont and Walpole, New Hampshire; the nature of its operations subsequently changed and from prior to September 19, 1890, until about the year 1907 it maintained a dam, canal, gates, water wheels, and appurtenant facilities in approximately the same location, which, of themselves and together with water wheels, water conduits, and appurtenant facilities owned, maintained, and operated by other persons were used for the development, transmission or utilization of power across, along, from, or in the Connecticut River;

(e) About the year 1907 the Bellows Falls Company constructed a new concrete dam in approximately the same location as the former dam; and thereafter until about the year 1926 maintained and operated such new dam together with a canal, gates, water wheels, water conduits, and appurtenant facilities, which it continued to operate and maintain, all of which of themselves and together with water wheels, water conduits, and appurtenant facilities owned, maintained, and operated by other persons were used for the development, transmission or utilization of power across, along, from, or in the Connecticut River;

(f) During the years 1926, 1927 and 1928 the Bellows Falls Company constructed a new hydroelectric project consisting of a dam across the Connecticut River located close to where the former dam was located, with roller gates and flashboards for raising the maximum level of the reservoir thereby impounded approximately 11 feet above the maximum level of the reservoir impounded by the former dam, an enlarged canal located in approximately the same position as the former canal, a power house containing three 17,000 kva generators each driven by a water turbine rated at 20,000 hp. on a 60-foot head, and appurtenant facilities (except as hereinafter recited in subparagraph (g)) including part of a primary line transmitting power from the project to the point of junction, at Pratts Junction, in the Town of Sterling, Massachusetts, with the interconnected primary transmission system of the New England Power Company; and said company converted an existing transmission line into a part of said project as a primary line transmitting power from the project to the point of junction with the interconnected primary transmission system of the Central Vermont Public Service Company, at Charlestown, Vermont; and said company from thenceforth operated and maintained the same, and continues to do so;

(g) Simultaneously with the construction of said dam and other structures or subsequently thereto the Connecticut Company constructed and has subsequently maintained and operated a part of said hydroelectric project consisting of the remaining part of the primary line to Pratts Junction, referred to in subparagraph (f), above, and converted a part of an existing transmission line between the Vernon Plant of said Company, and Bellows Falls, into a part of said project, and from thenceforth said parts of lines have been operated and maintained by it as parts of said project, and continue to be so operated;

(h) The Bellows Falls Company and the Connecticut Company propose to continue to operate and maintain said project and parts thereof substantially as heretofore;

(i) The operation and maintenance of the aforesaid dam from September 19, 1890, to March 3, 1899, was without the authorization of Congress and insofar as located within the State of New Hampshire was without any authorization by law, and was in violation of Section 9 of the River and Harbor Act of 1890, and as amended;

(j) The operation and maintenance of the dam as aforesaid from March 3, 1899, to about 1907, and the construction, operation, and maintenance of the aforesaid dam constructed in about 1907 and of the aforesaid dam constructed in the years 1926, 1927, and 1928, were and are without the consent or affirmative authorization of Congress, and without license or authorization being sought or obtained under the Federal Water Power Act, and were and are in violation of Sections 9 and 10 of the River and Harbor Act of 1899;

(k) The operation and maintenance of said project and of parts thereof after August 26, 1935, was not and is not under and in accordance with the terms of any permit or valid existing right-of-way granted prior to June 10, 1920 (within the meaning of those terms as used in Section 23 (b) of the Federal Power Act) and was not and is not under and in accordance with the terms of a license granted pursuant to the Federal Power Act, and was and is in violation of Section 23 (b) of that Act;

(1) The aforesaid hydroelectric project is so maintained and operated as to affect the interests of interstate and foreign commerce with respect to navigable capacities of navigable waters of the United States downstream from said dam; and the issuance of an order requiring the licensing of said project is appropriate, expedient and in the public interest for the conservation and utilization of navigation and water power resources of the region;

The Commission finds that:

(1) It is necessary and appropriate to carry out the provisions of the Federal Power Act, and it is in the public interest that the proceedings hereinafter provided for be had;

And the Commission *orders* that:

(A) The withdrawal of the aforesaid application by the New England Power Company is consented to, and the hearing on the said application set for September 25, 1939, is hereby dismissed, upon the express condition that such action on the part of this Commission:

(i) Shall be without prejudice to the proceedings hereinafter provided for and without waiver of jurisdiction with respect to the aforesaid hydroelectric project, including appurtenant transmission lines;

(ii) Shall not be construed as consenting to the merger of the facilities referred to in the said application or to the transfer of said hydroelectric project;

(B) A proceeding is hereby initiated, in which the Bellows Falls Company and Connecticut Company are made parties respondent, for the purpose of determining the following:

(i) The correctness and sufficiency of the recitals made in paragraphs (a) to (1), above, inclusive, and any other facts relevant thereto;

(ii) The findings which should be made by the Commission with reference thereto;

(iii) Whether, to conserve and utilize the navigation and water power resources of the region, it is appropriate, expedient, and in the public interest, or, to carry out any of the provisions of the Federal Power Act, it is otherwise necessary or appropriate, that said respondents or any of them be ordered to cease, within a reasonable time to be fixed by the Commission, to operate and maintain the aforesaid hydroelectric project, or parts thereof, except under and in accordance with the terms of a license or licenses granted under the Federal Power Act;

(iv) Whether any other action should be taken by the Commission in the premises;

(C) A public hearing on the issues set forth above be held beginning at ten o'clock A. M., October 23, 1939, in the Commission's Hearing Room, 1800 Pennsylvania Avenue, NW., Washington, D. C., for the purpose of taking evidence thereon and of affording the respondents and any other interested persons an opportunity to be heard and to make such showing of facts with respect to the issues raised as they may desire;

(D) That on or before October 18, 1939, the respondents file their responses to this order in conformity with the requirements specified for answers to formal complaints in Section 1.50 of the Commission's Rules of Practice and Regulations.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 39-3520; Filed September 23, 1939; 9:25 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 22nd day of September, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

[Docket No. 3556]

IN THE MATTER OF AMERICAN VENEER PACKAGE ASSOCIATION, INC., A CORPORATION, AND ITS OFFICERS; EASTERN PACKAGE ASSOCIATION, ITS OFFICERS AND MEMBERS; SOUTHERN PACKAGE ASSOCIATION, INC., A CORPORATION, ITS OFFICERS AND MEMBERS; THE STEVENSON CORPORATION, CHARLES R. STEVENSON, T. M. HARRISON, C. H. FERRIS, N. M. PERRIS, E. G. ACKERMAN, A. H. DYER, R. E. CASE, F. L. SWEETSER, W. R. GUTHRIE, A. P. NONWEILER, S. M. HUDSON, R. R. BLISS, L. P. PLATT, HOWARD MARVIN, AND D. M. METZGER, A PARTNERSHIP DOING BUSINESS UNDER THE FIRM NAME OF STEVENSON, JORDAN & HARRISON; NORTHEASTERN VENEER PACKAGE ASSOCIATION, ITS OFFICERS AND MEMBERS; AND MIDWEST PACKAGE ASSOCIATION, ITS OFFICERS AND MEMBERS

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, September 27, 1939, at ten o'clock in the forenoon of that day (eastern standard time), Federal Trade Commission Building, 6th and Constitution Avenue, Washington, D. C.

Upon completion of testimony for the Federal Trade Commisison, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 39-3532; Filed, September 25, 1939; 11:48 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of September, A. D. 1939

[File No. 63-1]

IN THE MATTER OF THE UNITED CORPORATION

ORDER AMENDING AND MODIFYING AN ORDER APPROVING AN INVESTMENT PROGRAM

The United Corporation, a Delaware corporation and a registered holding company, having filed an application and amendments thereto pursuant to Rule U-9C-4 under the Public Utility Holding Company Act of 1935, for approval of a program for the investment, during a period not to exceed six months, of not more than $8,000,000 of its current funds in securities issued by non-utility companies;

The Commission having, on March 13, 1939, issued an order[1] approving the investment program as outlined in the application as amended subject to certain terms and conditions among which was the following:

(7) That upon the completion of purchases totaling $8,000,000 or upon the expiration of six months from the date of this order in this matter, whichever event occurs first, the applicant shall make no further acquisition of securities under this investment program.

The applicant having filed on September 9, 1939 an application for the modification and amendment of the aforesaid order, to provide for an extension of the effective period of the said investment program to a time when purchases totaling $8,000,000 have been completed or when a period of ten months from the date of said order shall have expired, whichever event occurs first;

The Commission having duly considered this matter:

It is ordered, That the said sub-division (7) of the aforementioned order be

[1] Holding Company Act Release No. 1467, March 15, 1939.

and the same hereby is amended and modified to read:

"(7) That upon the completion of purchases totaling $8,000,000 or upon the expiration of ten months from the date of this order in this matter, whichever event occurs first, the applicant shall make no further acquisition of securities under this investment program."

It is further ordered, That all the terms and conditions of the aforesaid original order, with the exception of said subparagraph (7) thereof, be and the same shall remain unchanged and shall continue to be effective as previously ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-3522; Filed, September 23, 1939; 11:09 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 21st day of September, A. D. 1939.

[File No. 44-38]

IN THE MATTER OF WASHINGTON AND SUBURBAN COMPANIES

ORDER APPROVING APPLICATION

Washington and Suburban Companies, a registered holding company, having filed an application pursuant to Rule U-12C-2, promulgated under Section 12 (c) of the Public Utility Holding Company Act of 1935 for approval of the payment of partial liquidating dividends on its preferred shares of beneficial interest:

It is ordered, That said application be and the same hereby is approved to the extent that applicant may presently pay not in excess of $1,575,000 or $22.50 per share on 70,000 shares of beneficial interest, this order to be subject to the following terms and conditions:

1. That written consents from all shareholders, in conformity with applicant's declaration of trust and the laws of the Commonwealth of Massachusetts, be obtained before said liquidating dividend is paid.

2. That jurisdiction is retained in and as a part of the proceeding herein to entertain future supplemental applications for approval of the payment of future liquidating dividends.

3. That jurisdiction is retained over the accounting entries to be made by applicant, pursuant to the Commission's "Uniform System of Accounts for Public Utility Holding Companies."

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-3523; Filed, September 23, 1939; 11:09 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 22nd day of September 1939.

[File No. 1-506]

IN THE MATTER OF THE CAPITAL CITY PRODUCTS COMPANY COMMON STOCK, NO PAR VALUE

ORDER POSTPONING HEARING

The Capital City Products Company, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 promulgated thereunder, having made application to the Commission to withdraw its Common Stock, No Par Value, from listing and registration on the New York Curb Exchange and the Detroit Stock Exchange; and

The Commission by its order dated August 12, 1939 having suspended its decision upon such application; and

The Commission having ordered [1] that the hearing in this matter be continued on Wednesday, October 18, 1939, in Washington, D. C.; and

The issuer having requested a postponement of said hearing;

It is ordered, That said hearing be postponed until 10 A. M. on Friday, October 20, 1939, in Room 1102, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine; and

It is further ordered, That James G. Ewell, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-3524; Filed, September 23, 1939; 11:09 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 22nd day of September 1939.

[File No. 1-1699]

IN THE MATTER OF HAMILTON BROWN SHOE COMPANY COMMON STOCK, NO PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The St. Louis Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to strike from listing and registration the Common Stock, No Par Value, of Hamilton Brown Shoe Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Tuesday, October 17, 1939, at the office of the Securities and Exchange Commission, 105 West Adams Street, Chicago, Illinois, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Henry Fitts, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-3525; Filed, September 23, 1939; 11:10 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 22d day of September, A. D. 1939.

[File No. 31-360]

IN THE MATTER OF AMERICAN & FOREIGN POWER COMPANY INC.

NOTICE OF AND ORDER FOR POSTPONEMENT FOR HEARING

An application pursuant to Sections 3 (a) (5) and 3 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above named party;

Whereas it was ordered on August 29, 1939,[1] that a hearing on such matter be held on September 27, 1939 at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C.;

And whereas it appears to be in the public interest that such hearing be postponed;

It is ordered, That said hearing be, and it hereby is, postponed until October 4, 1939 in the forenoon of that day at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C.;

[1] 4 F.R. 3980 DI.

[1] 4 F.R. 3774 DI.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such postponement is hereby given to said applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers.

The matter concerned herewith is in regard to the requested exemption pursuant to Section 3 (a) (5) of said Act of American & Foreign Power Company Incorporated (over 10% of whose outstanding voting securities are owned by Electric Bond and Share Company, a registered holding company) on its own behalf and on behalf of every one of its subsidiary companies which is a holding company, as defined in Section 2 (a) (7) of said Act, as holding companies, from any and all provisions of said Act and from all the several obligations, duties, liabilities and disabilities imposed upon them thereby and further exempting each and every one of the subsidiary companies, as such, of American & Foreign Power Company Incorporated and of each and every one of its subsidiary holding companies from any and all provisions of said Act and from all the several obligations, duties, liabilities and disabilities imposed upon them thereby; and with regard to the requested exemption pursuant to Section 3 (b) of the Act of American & Foreign Power Company Incorporated on its own behalf and behalf of every one of its subsidiary companies from any and all provisions of said Act which may be applicable to them, or any of them, as subsidiary companies of Electric Bond and Share Company and from all the several obligations, duties, liabilities and disabilities thereby imposed upon them as such subsidiary companies.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-3526; Filed, September 23, 1939; 11:10 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 21st day of September 1939.

[File No. 1-1998]

IN THE MATTER OF PARK KING MINING COMPANY ASSESSABLE CAPITAL STOCK, PAR VALUE 10¢

ORDER SETTING DATE FOR ORAL ARGUMENT AND/OR THE FILING OF BRIEFS ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The Salt Lake Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to strike from listing and registration the Assessable Capital Stock, Par Value 10¢, of Park King Mining Company; and

Hearings having been held at the offices of the Commission in the City of Denver, State of Colorado, on the 24th day of August, 1939, pursuant to Orders of the Commission dated July 22, 1939 and August 16, 1939,[1] at which the applicant failed to appear and at which the application was admitted in evidence by the Trial Examiner over the objection of the registrant subject to Rule X-12D2-1 (b) (4) which states that unless the Commission otherwise directs, the application shall be dismissed if the applicant fails to appear and support its application after it has been notified by counsel for the Commission of such objection or opposition;

It is ordered, That the matter be set down for oral argument before this Commission at 10 A. M. on Monday, October 16, 1939, at the offices of the Commission, 1778 Pennsylvania Avenue NW., Washington, D. C. on the following questions:

(a) Shall the Commission direct that the application be received in evidence?

(b) Shall the Commission grant the application to delist and if so what, if any, terms or conditions shall be imposed for the protection of investors in granting said application?

It is further ordered, That the case may be submitted on briefs instead of by oral argument if the parties so elect.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-3530; Filed, September 25, 1939; 11:32 a. m.]

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[1] 4 F.R. 3654 DI.